IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

THURSDAY, THE 8TH FEBRUARY 2007 / 19TH MAGHA 1928

Crl.Rev.Pet.No. 565 of 2007

CRA.395/2004 of I ADDL. SESSIONS COURT, PALAKKAD
CC.360/2000 of CHIEF JUDICIAL MAGISTRATE COURT, PALAKKAD

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REVN. PETITIONER: APPELLANT/ACCUSED

SHANMUGHAN, S/O.SUNDARAN,
MOTHEDATH HOUSE, ARUMUGHA SADANAM,
MUNDUR POST, PALAKKAD.

BY ADV. SRI.SAJAN VARGHEESE K.
SRI.LIJU. M.P

RESPONDENTS: COMPLAINANT

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1. M/S.HOMFIT LEASING LIMITED,
VCM COMPLEX, HOMFIT JUNCTION, OLAVAKKODE,
PALAKKAD (REPRESENTED BY POWER OF ATTORNEY
HOLDER P.JAYAKUMAR, S/O.M.P.RAMAKRISHNAN,
ACCOUNTS CLERK).

2. STATE OF KERALA, REP. BY THE
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

R2 BY PUBLIC PROSECUTOR MR. AMJAD ALI

THIS CRIMINAL REVISION PETITION HAVING COME UP FOR ADMISSION ON 08/02/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

K.R. UDAYABHANU, J.

CRL.R.P.NO.565 of 2007

DATED THIS THE 8TH DAY OF FEBRUARY 2007

ORDER

The revision petitioner is the accused in C.C.No.360/2000 in the file of the Chief Judicial Magistrate Court, Palakkad with respect to the offence under Section 138 of the Negotiable Instruments Act. The accused stands convicted by both the courts below and the sentence as modified by the Sessions Judge is to undergo simple imprisonment for one month with a direction to pay a fine of Rs.10,000/- and in default to undergo simple imprisonment for three months and the amount of fine to be paid to the complainant as compensation.

2. It is the case of the revision petitioner that he had summoned the documents from the complainant company. But his application filed to re-call PW1 was dismissed. The case of the complainant is that the accused had purchased household articles on instalment basis and amount due as per the cheque is the outstanding purchase price.

3. I find that the petitioner ought to have taken up the matter before the appellate court or applied before the appellate court to have the matter remitted. The plea of discharge stands not proved. I find no reason to interfere with the findings of the courts below.

Considering the plea of the counsel for the revision petitioner, the sentence is modified to imprisonment till the rising of the court; and the rest of the sentence is sustained. The revision petitioner/accused is granted three months time to pay the fine of Rs.10,000/-. He shall appear before the court below on 9-5-2007 to receive the sentence. The Crl.R.P.is disposed of accordingly.

K.R.UDAYABHANU, JUDGE

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